

Item W06-07 Response Form

Title: Juror Questionnaire for Criminal Cases—Capital Case Supplement (approve form MC-002(a))

- ☐ Agree with proposed changes
- ☐ Agree with proposed changes **if modified**
- ☐ Do not agree with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

☐ Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, January 23, 2006
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee
All comments will become part of the public record of the council's action.*

Invitation to Comment W06-07

Title	Juror Questionnaire for Criminal Cases—Capital Case Supplement (approve form MC-002(a))
Summary	The proposed form MC-002(a) is optional and designed as a basis for court and counsel to gather information about each potential juror in capital cases and to make voir dire more efficient.
Source	Criminal Law Advisory Committee
Staff	John A. Larson, 415-865-7589, john.larson@jud.ca.gov
Discussion	Proposed form MC-002(a) is a supplement to Judicial Council Form MC-002, <i>Juror Questionnaire for Criminal Cases</i> , approved for use by the Judicial Council, effective January 1, 2006. The proposed form is a supplemental form to be used for capital case voir dire. Its use is optional and designed as a tool for court and counsel to gather basic information concerning prospective jurors' views on capital cases. Form MC-002(a) is also designed to assist the court in making voir dire more efficient—counsel can avoid repetition during direct questioning and can use the form as a basis to build individual questionnaires tailored to particular cases.
	Attachment

JUROR QUESTIONNAIRE FOR CRIMINAL CASES

Capital Case Supplement

By asking the following questions regarding your feelings about capital punishment, the court is not suggesting in any way that you will ever need to decide this question. The court has no way of knowing what the evidence in this case will be or whether you will find *[the defendant]* *[any of the defendants]* guilty of any charge at all. The court is asking these questions because one of the possible sentences to be decided in the penalty trial is the sentence of death if a defendant is convicted of the murder charges and if the special circumstance allegation filed in this case is found true. The other possible sentence if *[a defendant is]* *[any of the defendants are]* convicted of the murder charge and if the special circumstance allegation filed in this case is found true is life imprisonment without the possibility of parole. *[A defendant]* *[Any of the defendants]* may also be acquitted or found guilty of lesser charges. Therefore, the court must know whether you could be fair to *[both]* *[all]* sides on the issue of punishment if a penalty trial is necessary.

If the penalty trial is necessary you will first hear evidence and arguments from counsel. After having heard and considered all of the evidence and the arguments of counsel, you shall consider, take into account and be guided by the applicable aggravating and mitigating factors upon which you will be instructed.

An aggravating circumstance or factor is any fact, condition, or event relating to the commission of a crime, above and beyond the elements of the crime itself, that increases the wrongfulness of the defendant's conduct, the enormity of the offense, or the harmful impact of the crime. An aggravating circumstance may support a decision to impose the death penalty.

A mitigating circumstance or factor is any fact, condition, or event that makes the death penalty less appropriate as a punishment, even though it does not legally justify or excuse the crime. A mitigating circumstance is something that reduces the defendant's blameworthiness or otherwise supports a less severe punishment. A mitigating circumstance may support a decision not to impose the death penalty. (CALCRIM No. 763.)

2.1 WHICH DO YOU THINK IS THE MORE SEVERE PUNISHMENT?

☐ THE DEATH PENALTY OR ☐ LIFE IN PRISON WITHOUT PAROLE
WHY?

2.2 WHICH WOULD YOU SAY ACCURATELY STATES YOUR GENERAL BELIEF REGARDING THE DEATH PENALTY?

☐ STRONGLY IN FAVOR ☐ STRONGLY OPPOSED
☐ MODERATELY IN FAVOR ☐ MODERATELY OPPOSED
☐ NEUTRAL

2.3 PLEASE EXPLAIN IN MORE DETAIL YOUR BELIEFS ABOUT THE SENTENCE OF DEATH:

2.4 PLEASE EXPLAIN IN MORE DETAIL YOUR BELIEFS ABOUT THE SENTENCE OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE:

2.5 WHAT PURPOSE, IF ANY, DO YOU BELIEVE THAT LIFE IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE SERVES?

2.6 WHAT PURPOSE, IF ANY, DO YOU BELIEVE THE DEATH PENALTY SERVES?

2.7 DO YOU BELIEVE THE DEATH PENALTY IS IMPOSED:

<input type="checkbox"/> TOO OFTEN	<input type="checkbox"/> ENOUGH
<input type="checkbox"/> NOT ENOUGH	<input type="checkbox"/> RANDOMLY
<input type="checkbox"/> DO NOT KNOW	

2.8 HAVE YOUR VIEWS ABOUT THE DEATH PENALTY CHANGED SUBSTANTIALY IN EITHER INTENSITY OR NATURE IN THE LAST FEW YEARS?

☐ YES ☐ NO

IF SO, HOW HAVE YOUR VIEWS ABOUT THE DEATH PENALTY CHANGED?

2.9 CAN YOU SET ASIDE ANY OPINIONS YOU MAY HAVE ABOUT THE DEATH PENALTY, AND MAKE A DECISION IN THIS CASE BASED ON THE LAW AS IT IS GIVEN BY THE JUDGE?

☐ YES ☐ NO

IF NOT, WHY NOT?

2.10 DO YOU HAVE ANY RELIGIOUS OR PERSONAL BELIEFS THAT WOULD AFFECT YOUR ABILITY TO VOTE FOR THE DEATH PENALTY AS A JUDGMENT IN THIS CASE?

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN:

2.11 DO YOU PRACTICE A PARTICULAR RELIGION OR BELONG TO A RELIGIOUS ORGANIZATION THAT HAS A PARTICULAR VIEW REGARDING THE DEATH PENALTY?

☐ YES ☐ NO

a. IF YES, WHAT IS THAT VIEW?

b. DO YOU FEEL OBLIGATED TO ACCEPT THIS VIEW?

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN WHY:

2.12 DO YOU BELONG TO, OR HAVE YOU DONATED TO, ANY GROUP THAT ADVOCATES THE ABOLITION OF THE DEATH PENALTY?

☐ YES ☐ NO

IF YES, WHAT GROUP(S)?

2.13 DO YOU BELONG TO, OR HAVE YOU DONATED TO, ANY GROUP THAT ADVOCATES THE INCREASED USE OF THE DEATH PENALTY?

☐ YES ☐ NO

IF YES, WHAT GROUP(S)?

2.14 EVEN IF YOU BELIEVED THE PROSECUTOR HAD PROVED GUILT BEYOND A REASONABLE DOUBT, WOULD YOU, BECAUSE OF ANY VIEWS YOU MAY HAVE REGARDING THE DEATH PENALTY, REFUSE TO FIND THE DEFENDANT(S) GUILTY OR FIND A SPECIAL CIRCUMSTANCE TO BE TRUE TO AVOID HAVING TO DECIDE WHETHER TO IMPOSE THE DEATH PENALTY?

☐ YES ☐ NO

2.15 IF YOU FIND THE DEFENDANT(S) GUILTY OF THE CRIME, WOULD YOU AUTOMATICALLY IN ALL CASES VOTE FOR A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE WITHOUT CONSIDERING THE EVIDENCE AND THE AGGRAVATING AND MITIGATING FACTORS?

☐ YES ☐ NO

2.16 IF YOU FIND THE DEFENDANT(S) GUILTY OF THE CRIME, WOULD YOU AUTOMATICALLY IN ALL CASES VOTE FOR A SENTENCE OF DEATH WITHOUT CONSIDERING THE EVIDENCE AND THE AGGRAVATING AND MITIGATING FACTORS?

☐ YES ☐ NO